

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eugenio A. Cefali\*

Application No. : 08/962,421 Confirmation No. :

Filed : October 31, 1997

For : INTERMEDIATE RELEASE NICOTINIC ACID  
COMPOSITIONS FOR TREATING HYPERLIPIDEMIA WHICH  
EXHIBIT AN IN VIVO STAIR-STEPPED ABSORPTION  
CURVE

Group : 1615

Examiner : James M. Spear

Hon. Commissioner for Patents  
P.O. Box 2327  
Arlington, Virginia 22202

INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. §§ 1.56 AND 1.97(b)

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant,  
through his representatives, makes of record the following  
documents, copies of which are included:<sup>†</sup>

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\* The inventor on file for this application is Eugenio A. Cefali. A Petition to Correct Inventorship under 37 C.F.R. § 1.48(a) to add David J. Bova as a co-inventor was filed on January 16, 2003 and is currently pending.

† For the convenience of the Examiner, a completed Form PTO-1449 listing these documents is attached hereto in duplicate

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<sup>†</sup> This symbol indicates documents cited by Barr Laboratories in connection with litigation between Kos Pharmaceuticals and Barr Laboratories currently pending in the Southern District of New York. Kos Pharmaceuticals is the assignee of record of the pending application.

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The above-identified application is a continuation-in-part of United States application 08/814,974 ("the '974 application), filed March 6, 1997, now United States patent 6,129,930 ("the '930 patent"); which is a continuation-in-part of United States application 08/368,378, filed January 14, 1995, now United States patent 6,080,428 ("the '428 patent"); which is a continuation-in-part of United States application 08/124,392, filed September 20, 1993, now abandoned.

Applicant makes of record the documents listed below, from litigations involving the '930 patent, the '428 patent and United States patent 6,406,715, which claims priority from the '974 application:

\*\* Complaint, filed by Kos Pharmaceuticals, Inc. against Barr Laboratories on March 4, 2002, in Civil Action No. 02 CV 1683.

\*\* First Amended Complaint, filed by Kos Pharmaceuticals, Inc. on March 11, 2002, in Civil Action No. 02 CV 1683.

\*\* Answer To First Amended Complaint, filed by Barr Laboratories on March 25, 2002, in Civil Action No. 02 CV 1683.

\*\* Reply To Counterclaims, filed by Kos Pharmaceuticals, Inc. on April 15, 2002, in Civil Action No. 02 CV 1683.

\*\* Amended Answer To First Amended Complaint, filed by Barr Laboratories on August 19, 2002, in Civil Action No. 02 CV 1683.

\*\* Complaint, filed by Kos Pharmaceuticals, Inc. on August 13, 2002, in Civil Action No. 02 CV 6409.

\*\* Answer To Complaint, filed by Barr Laboratories on September 3, 2002 in Civil Action No. 02 CV 6409.

\*\* Complaint, filed by Kos Pharmaceuticals, Inc. on November 12, 2002, in Civil Action No. 02 CV 8995.

\*\* Answer To Complaint, filed by Barr Laboratories on December 3, 2002 in Civil Action No. 02 CV 8995.

\*\* Reply To Counterclaims And Counterclaims For Declaratory Judgment, filed by Kos Pharmaceuticals, Inc. on March 4, 2003 in Civil Action No. 02 CV 8995.

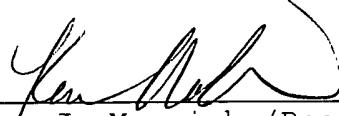
The majority of the art cited herein has been previously considered by the Examiner in the applications, from which this application claims priority. Art that is being cited to the Examiner for the first time is indicated by asterisks on this Statement and by a flag on the document itself.

Applicant requests that the above-cited documents be:  
(1) fully considered by the Examiner during the course of the examination of this application; and (2) printed on any patent that may issue from this application.

Applicant also requests that a copy of Form PTO-1449,  
as considered and initialled by the Examiner, be returned to the  
undersigned with the next Communication.

Respectfully submitted,

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